K

1948

File No. Requisitioned land (c of P) II/48

Legal **DEPARTMENT**

B. **BRANCH**

Subject:—

'Rules' under Notifications under the Requisitioned Land (Continuance of Powers) Act, 1947.

P. 20 (E)

File No. Requisitioned Land (c of P) II — 48

Std. Sectt. Slip 24 B a.

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K.S.R. 22/5 22/5

The draft notification at p.9/ante, as slightly amended, is in order.

2. It is presumed that the Civil Judge (Junior Division) Dahod, possesses the qualifications required by section 19(1)(b) of the Defence of India Act,1939.

3. There appears to be a discrepancy in the number of the Collector of Panch Mahal's order referred to in the draft notificatio at p.9[illegible] . The number given in the draft notification is COH 48/4, dated the 19th December 1945, while from the copy of the order at p.99 it appears to be R.E.G. dated the 19th December 1945. R.D. should verify the correct number before the notification is issued.

J. R. Dhuradhar
Sd/.....3/7.
Additional Secretary to Government.

U.R. to R.D. No.6299, dated 3rd July 1946.

DVR.
19/5.
Se.

ORDER

Revenue Department,
Bombay Castle, 1946.

Requisition Land (Continuance of Powers) Act, 1947.

No.783/45.- In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act, 1939 (XXXV of 1939), entrusted to the Provincial Governments by the Government of India, Defence Department Notification, No.1365-GS/42, dated the 19th September 1942, read with section 6 of the Requisitioned Land (Continuance of Powers) Act, 1947, the Government of Bombay is pleased to appoint the Civil Judge (Junior Division,) Dohad, as arbitrator to determine the amount of compensation payable in respect of the properties situate at Dohad, district Panch Mahals, specified column 2 to 4 of the Schedule hereto appended and requisitioned by the Collector under his Orders made under sub-rule (1) of rule 75-A of the Defence of India Rules, specified in colomns 5 of the said Schedule.

SCHEDULE

Serial No.	Description of the S.No.	Property Area	Name of the Owner.	Collr's requisition order No..
1	2	3	4	5
1.	986-B	4 - 39	Mamubhai N.Tanva	Collector of Panchmahals and Panchmahals No. C.C.N. 48/4.5.11.43. C.C.N. 48/4.4.30.11.44 C.C.N. 48/4.4.19.12.45.
2	999	3 - 14	-do-	-do- -do-
3.	998/1/2.	0 - 29	-do-	-do- -do-
4.	998/B	5 - 12	-do-	-do- -do-
			Collector of Panchmahals No.	
1.	986/1/2	2 - 1.	Kalubhai S. Shaikh.	-do- -do-
2.	986/1/2	0 - 1	-do-	-do- -do-
3.	986.	0 - 1	-do-	-do- -do-

By order of the Governor of Bombay,

V.N.Sardesai,

Secretary to Government.

To be published in part ~~II~~ I of the Bombay Government Gazette

to be returned with 7 spare copies of the Notification.

Sd/..

Addl. Dr. Secy. to the Government of Bombay,
Rev. Department.

DYRM

19/5.

5e.

7

Lands and Buildings
Requisition and
Acquisition of ———
Administration of,

GOVERNMENT OF BOMBAY
REVENUE DEPARTMENT,
Circular No., 10495/39.
Bombay Castle, 9th July 1948.

CIRCULAR OF GOVERNMENT.

In modification of the orders issued in Government Circular of even number dated 24th March 1948 the officers and departments mentioned below are informed that it has been decided that-

1) cases pertaining to or arising out of the requisitioning and/or acquisition of premises whether lands or buildings, under the Defence of India Act and Rules, 1939, or the Requisitioned Land (Continuance of Powers) Ordinance, 1946, or the Requisitioned Land (Continuance of Powers) Act, 1947, for the Government of India, this department and/ or officers under the administrative control of this department should be dealt with ~~him~~ by this department.

2) Cases pertaining to or arising out of the requisitioning and/or acquisition of premises whether lands or buildings, under the Defence of of India Act and Rules , 1939, or the Requisitioned Land(Continuance of Powers) Ordinance, 1946 or the Requisitioned Land (Continuance of Powers) Act, 1947 for other departments of the Government of Bombay and/or officers under the administrative control of ~~xxx~~ other departments of the Government of Bombay should be dealt with by the department concerned, and,

3) Only cases pertaining to or arising out of the Bombay Land Requisition Ordinance, 1947, or the Bombay Land Requisition Act, 1948, should be dealt with by the Health and Local Government Department.

By order of the Governor of Bombay,

V.N. Sardesai.

Secretary to Government

P.T.O.

Government Circular No.10495/39, Revenue Department, dated 9th July 1948.

To

The Commissioners of Divisions,
All Collectors (Including the Collector of Bombay)
All Departments of the Secretariat (except the separate and Political and Services Department).
The Political and Services Department(with a request to issue the requisite correction slip to the Rules of Business).

xxx No. of 1948.

Copy forwarded for information and guidance to:-

R.L.No.8657
12/7/48.

Submitted for information.
This may be filed in Requisition lands II/48.

DYR.

19/5.

Sc.

Legal Department.

The draft notification at page 47 ante, as slightly amended, is in order.

2. It is presumed that the Chief Judge, small causes Court, is qualified to be the High Court Judge (cf.sec. 19(1)(b) of the Defence of India Act, 1939.).

J.R.D.
9/7.

Additional Secretary to Government.

U.O. to R.D. No. 6480, dated the 10th July 1942.

DCR.
19/7.
Sd/-.

11. NOTIFICATION.

Revenue Department
Bombay Castle, 1945.

Defence of India Act,1939. No.8244/45 In exercise of the powers of the Central Government under clause (b) of subsection(1) of section 19 of the Defence of India Act,1939(XXXV of 1939), entrusted to the Provincial Governments by the Government of India, Defence Department Notification F.No.136/2-OR/42, dated the 19th September 1942, read with section 2 of Defence of India (Second Amendment) Ordinance, 1946, (Ordinance No. XII of 1946) the Government of Bombay is pleased to appoint the Chief Judge of the Small Cause Court, Bombay, as arbitrator to determine the amount of compensation payable in respect of the whole of the property consisting of the bungalow, outhouses and land including ordinary light fittings, fans and other fixtures, known as Ganadia Bungalow and Estate at the junction of Tardeo Road and Warden Road bearing C.S. No. 738 of Malbar Hill Division situate at Bombay and requisitioned by the Collector of Bombay under his order No. MSO 4678 dated 10th May 1944 made under sub-rule (1) of rule 75-A of the Defence of India Rules.

By order of the Governor of Bombay,

V.N.Sardesai,
Secretary to Government.

HMR.
19/5.
Se.

13. Legal Department.

A revised draft notification is sent herewith.

2. There is no objection to appoint the Chief Judge of the Small Cause Court as an arbitrator, if he is qualified to be a High Court Judge(cf section 19(1)(b) of Defence of India Act, 1939.).

J.R. Dhuradhar
30/.....7/41.

Additional Secretary to Government.

U.O. to P.P. No.2036, dated the 30th July 1941.

Submitted for approval and signature.

30/7.

29/7.

30.

35. [illegible]

Finance Department,

Bombay Castle , 1948.

Requisitioned Land (Continuance of Powers) Act, 1947.

No. 6771/33-E- In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act, 1939(XXXV of 1939), entrusted to the Provincial Governments by the Government of India, Defence Department Notification No. 1365-GR/42, dated the 19th September 1942, read with section 6 of the Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947), the Government of Bombay is pleased to appoint the Chief Judge of the Small Cause Court, Bombay, as arbitrator to determine the amount of compensation payable in respect of the property specified in the Schedule below and requisitioned by the Collector of Bombay, under his R.O.No. H.S .C. 467 H, dated the 13 th April 1944, made under sub-rule (1) of x rule 75-A of the Defence of India Rules.

SCHEDULE.

Locality	Schedule	Remarks.
Opp. Churchgate Station.	" Eros Theatre Building" 2nd Floor, flat to the West side, occupied by M/s. F.E.Griffith & Co. Bombay Ltd. Portion requisitioned is detailed in the next column.	(1) The front entering three rooms(2) one bath room behind the third one of these rooms (3) the small rooms in line with this bath room (4) and the Western Passage (5) with the right to use the servants' latrines and washing place in the rear.

By order of the Governor of Bombay,

Secretary to Government.

The draft notification at p.15 ante, as slightly amended, is in order.

2. It is practical that the Chief Judge of the Small Causes Court, Bombay, is qualified to be the High Court Judge. (Cf. section 19(1)(b) of the Defence of India Act, 1939.).

J.R. Dhuramdhar
Sd/.....31/7.
Additional Secretary to Government.

U.O. to R.D. No. 7349, dated the 2nd August 1940.

Submit for Signature.

HM.
29/7.
Sd.

NOTIFICATION

Revenue Department.

Bombay Castle, 1948.

Requisitioned Land (Continuance of Powers) Act, 1947.

No. 8679/25 In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act, 1939, (XXXV of 1939) entrusted to the Provincial Governments by the Government of India, Defence Department Notification, No.1965-GS/42, dated the 19th September 1942, read with section 6 of the Requisitioned Land (Continuance of Powers)Act, 1947 the Government of Bombay is pleased to appoint the Chief Judge of the Small Causes Court, Bombay, as Arbitrator to determine the amount of compensation payable in respect of the property situate at Worli specified in column 1 of the Schedule hereto appended and requisitioned by the Collector of Bombay under his order made under sub-rule (1) of the rule 75-A of the Defence of India Rules, specified in column 2 of the said Schedule.

SCHEDULE

Description of the Property	Collector's order.
1	2
C.S.No. 765A and 766 of Worli Divn. (Plot Nos.64A and 65)	No.NSC 467-H dated 22-12-42.

By order of the Governor of Bombay

V.N.Sardesai,

Secretary to Government.

To be published in part I of the Bombay Government Gazette: to be returned with 6 spare copies of the Notification.

Under Secretary to the Government of Bombay,

Revenue Department.

Ed/.....19/6.

DTR.

19/5.

21. Legal Department.

The draft notification at page 13ante, as slightly amended, is in order.

J.R. Dhurandhar
Sd/.....4/8.

Additional Secretary to Government

U.O. to R.D. No.7319, dated the 4th August 1948.

Subt. for Signature,
Addl. Secy.

DYR.

19/8.

Se.

NOTIFICATION

Revenue Department.

Bombay Castle, 1948.

Requisitioned Land (Continuance of Powers) Act,1947.

No.8997/45.- In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act,1939 (XXXV of 1939), entrusted to the Provincial Government by the Government of India, Defence Department Notification, No.1365-OR/42, dated the 19th September, 1942, read with section 6 of the Requisitioned Land (Continuance of Powers) Act,1947 the Government of Bombay is pleased to appoint the Civil Judge (Senior Division) Poona, as arbitrator to determine the amount of compensation payable in respect of the property situate at Lonavala, Taluka Maval, Dist. Poona specified in Column 1 of the following Schedule and requisitioned by the Collector of Poona under his order made under sub-rule (1) of the rule 75-A of the Defence of India Rules, specified in column 2 of the said Schedule.

SCHEDULE.

Description of the Property.	Collector's Order.
1	2
Bungalow No.H-73 known as "Moor Villa" situate at Lonavala Taluka Maval, Dist. Poona.	No.VII/673-I dt.23-10-1944.

By order of the Governor of Bombay,

V.N.Sardesai,
Secretary to Government.

To be published in part I of the Bombay Government Gazette: to be returned with 6 spare copies of the Notification.

Additional Under Secy.to Govt.of Bom
Rev. Deptt.

DXR.

5a.

19/5.

25. Legal Department.

A revised draft notification is sent herewith.

J.R. Dhuvandhar
30/11.

Additional Secretary to Government.

U.R. to R.D. No.11339, dated the 1st December 1948.

DIR.

29/5.

30.

27. NOTIFICATION.

Revenue Department.

Bombay Castle, 1948.

Requisitioned land (Continuance of Powers) Act, 1947.

No. - In exercise of the powers of the Central Government under clause (b) of sub-section (1) of section 19 of the Defence of India Act, 1939 (XXXV of 1939), entrusted to the Provincial Governments by the Government of India, Defence Department Notification No. 1365-OR/42, dated 19th September, 1942, read with section 6 of the Requisitioned Land (Continuance of Powers) Act, 1947, the Government of Bombay is pleased to appoint the Civil Judge (Senior Division), Poona, as arbitrator to determine the amount of compensation payable in respect of the land specified in the Schedule annexed hereto and acquired by the Collector of Poona by publishing a notice bearing No. 711/723, dated the 7th February 1947 under section 5 of the Requisitioned Land (Continuance of Powers) Ordinance, 1946, (Ordinance No. XIX of 1946).

THE SCHEDULE.

Description of the property.

Land bearing S. No. 206/1 of Kalepan, taluka Haveli, district Poona and measuring 1 Ac. 26 and 27 Guntha.

By order of the Governor of Bombay,

Secretary to Government.

DTR.

19/3.

5c.

The plot under reference was first requisitioned by the Collector of Bombay by his order No.G.I.Con 1,dated the 26th March 1945, (copy not furnished) made under rule 75(1) of the Defence of India Rules. After the expiry of the Defence of India Rules the plot continued to be subject to requisition first under section 3 of the Requisitioned Land (Continuance of Powers) Ordinance, 1946, and then under the Act of same name (XVII of 1947). On the 13th March 1948 the Central Government, by a notice issued in the Ministry of Commerce (Copy at pp. 5-7 ante), acquired the said land under section 5 of the said Act. The area shown in the notice of acquisition is 713 square yards while actually it measures 836 3/7 square yards. The Bombay Port Trust who are the owners of the said land accept 836 3/7 square yards as the correct area and claim compensation at the rate of Rs.234 per square yard. As the rate is too high the Trust has requested the Government to appoint an arbitrator to adjudicate on the claim. The legal points that arises for the consideration are ——

(1) Whether the Provincial Government is competent to appoint an Arbitrator where the land has been acquired by the Central Government; and

(2) Whether the area can be rectified now since the area measures 836 3/7 square yards and not 713 square yards as mentioned in the notice published by the Central Government.

3. Section 6(2) of the Requisitioned Land (Continuance of Powers) Act, 1947, provides that ——

" In respect of any acquisition of requisitioned land under this Act or the Ordinance, the amount of compensation payable shall be such sum as would be sufficient to purchase at the market rate prevailing on the date of the notice under section 5 a piece of land equal in area to, and situated within a distance of three miles from, the acquired land, and suitable for the same use as that to which the acquired land was being put immediately before the date of its requisition, or a sum equivalent to twice the market value of the acquired land on the date of its requisition, whichever is less; and such amount shall be determined and paid in accordance with the procedure set out in the aforesaid

section 19 and the rules made thereunder."

Sub-section (3) of section 6 provides that for the purposes of subsection (2) such of these provisions of section 19 of the Defence of India Act and of the rules made thereunder as relate to matters of procedure, shall be deemed to be continuing in force. Section 19 of the Defence of India Act provides for the method of determining compensation for the land requisitioned or acquired under rule 75A of the Defence of India Rules and also provides for making rules for carrying into effect the provisions of that section. By the Government of India Defence Department Notification No. 1365- O.R./42, dated the 19th September 1942, the functions of the Central Government under section 19 of the Defence of India Act were entrusted to all Provincial Governments in respect of cases where action is taken by or on behalf, or by an officer of the Provincial Government on behalf, of the Central Government. In the case under consideration it is true that the Collector of Bombay had requisitioned the land by his Order No. G.I. Comm 1 dated the 26th March 1945 presumably on behalf of the Central Government. The question however is not to determine the compensation in respect of the requisition of the land but in respect of the acquisition thereof, which action has been taken by the Central Government. Since the action in this case has not been taken by any officer of the Provincial Government on behalf of the Central Government, the notification of delegation referred to above is inapplicable and the Provincial Government would not be competent to appoint an arbitrator to determine the amount of compensation payable to the Bombay Port Trust. The appointment will have to be made by the Central Government.

It may also be brought to the notice of the Central Government that the area of the land actually measures 836 3/7 square yards and not 713 square yards as mentioned in their notice dated the 13th March 1943 and that it should be corrected before the arbitrator is appointed.

J. R. Dhuramdhar
Sd/.....10/11.
Additional Secretary to Government.

U.R. to R.D.No. 10556, dated the 10th November 1943.

HKR.
19/3.
Sa.